

(v) Date, time, and duration of access.

(2) [Reserved]

(f) *Document storage.* (1) Documents may be scanned or directly stored to an unalterable storage medium under the following conditions.

(i) The storage medium shall contain the exact duplicate of the original document.

(ii) All documents stored on the storage medium shall be maintained with a detailed index containing the gaming operation department and date. This index shall be available upon request by the Commission.

(iii) Upon request and adequate notice by the Commission, hardware (terminal, printer, etc.) shall be made available in order to perform auditing procedures.

(iv) Controls shall exist to ensure the accurate reproduction of records up to and including the printing of stored documents used for auditing purposes.

(v) The storage medium shall be retained for a minimum of five years.

(vi) Original documents must be retained until the books and records have been audited by an independent certified public accountant.

(2) [Reserved]

§ 542.17 What are the minimum internal control standards for complimentary services or items?

(a) Each Tribal gaming regulatory authority or gaming operation shall establish and the gaming operation shall comply with procedures for the authorization, issuance, and tracking of complimentary services and items, including cash and non-cash gifts. Such procedures must be approved by the Tribal gaming regulatory authority and shall include, but shall not be limited to, the procedures by which the gaming operation delegates to its employees the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes.

(b) At least monthly, accounting, information technology, or audit per-

sonnel that cannot grant or receive complimentary privileges shall prepare reports that include the following information for all complimentary items and services equal to or exceeding \$100 or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$100:

(1) Name of customer who received the complimentary service or item;

(2) Name(s) of authorized issuer of the complimentary service or item;

(3) The actual cash value of the complimentary service or item;

(4) The type of complimentary service or item (i.e., food, beverage, etc.); and

(5) Date the complimentary service or item was issued.

(c) The internal audit or accounting departments shall review the reports required in paragraph (b) of this section at least monthly. These reports shall be made available to the Tribe, Tribal gaming regulatory authority, audit committee, other entity designated by the Tribe, and the Commission upon request.

[67 FR 43400, June 27, 2002, as amended at 70 FR 47107, Aug. 12, 2005]

§ 542.18 How does a gaming operation apply for a variance from the standards of the part?

(a) *Tribal gaming regulatory authority approval.* (1) A Tribal gaming regulatory authority may approve a variance for a gaming operation if it has determined that the variance will achieve a level of control sufficient to accomplish the purpose of the standard it is to replace.

(2) For each enumerated standard for which the Tribal gaming regulatory authority approves a variance, it shall submit to the Chairman of the NIGC, within thirty (30) days, a detailed report, which shall include the following:

(i) A detailed description of the variance;

(ii) An explanation of how the variance achieves a level of control sufficient to accomplish the purpose of the standard it is to replace; and

(iii) Evidence that the Tribal gaming regulatory authority has approved the variance.

(3) In the event that the Tribal gaming regulatory authority or the Tribe

chooses to submit a variance request directly to the Chairman, it may do so without the approval requirement set forth in paragraph (a)(2)(iii) of this section and such request shall be deemed as having been approved by the Tribal gaming regulatory authority.

(b) *Review by the Chairman.* (1) Following receipt of the variance approval, the Chairman or his or her designee shall have sixty (60) days to concur with or object to the approval of the variance.

(2) Any objection raised by the Chairman shall be in the form of a written explanation based upon the following criteria:

(i) There is no valid explanation of why the gaming operation should have received a variance approval from the Tribal gaming regulatory authority on the enumerated standard; or

(ii) The variance as approved by the Tribal gaming regulatory authority does not provide a level of control sufficient to accomplish the purpose of the standard it is to replace.

(3) If the Chairman fails to object in writing within sixty (60) days after the date of receipt of a complete submission, the variance shall be considered concurred with by the Chairman.

(4) The 60-day deadline may be extended, provided such extension is mutually agreed upon by the Tribal gaming regulatory authority and the Chairman.

(c) *Curing Chairman's objections.* (1) Following an objection by the Chairman to the issuance of a variance, the Tribal gaming regulatory authority shall have the opportunity to cure any objections noted by the Chairman.

(2) A Tribal gaming regulatory authority may cure the objections raised by the Chairman by:

(i) Rescinding its initial approval of the variance; or

(ii) Rescinding its initial approval, revising the variance, approving it, and re-submitting it to the Chairman.

(3) Upon any re-submission of a variance approval, the Chairman shall have thirty (30) days to concur with or object to the re-submitted variance.

(4) If the Chairman fails to object in writing within thirty (30) days after the date of receipt of the re-submitted variance, the re-submitted variance

shall be considered concurred with by the Chairman.

(5) The thirty (30) day deadline may be extended, provided such extension is mutually agreed upon by the Tribal gaming regulatory authority and the Chairman.

(d) *Appeals.* (1) Upon receipt of objections to a re-submission of a variance, the Tribal gaming regulatory authority shall be entitled to an appeal to the full Commission in accordance with the following process:

(i) Within thirty (30) days of receiving an objection to a re-submission, the Tribal gaming regulatory authority shall file its notice of appeal.

(ii) Failure to file an appeal within the time provided by this section shall result in a waiver of the opportunity for an appeal.

(iii) An appeal under this section shall specify the reasons why the Tribal gaming regulatory authority believes the Chairman's objections should be reviewed, and shall include supporting documentation, if any.

(iv) The Tribal gaming regulatory authority shall be provided with any comments offered by the Chairman to the Commission on the substance of the appeal by the Tribal gaming regulatory authority and shall be offered the opportunity to respond to any such comments.

(v) Within thirty (30) days after receipt of the appeal, the Commission shall render a decision based upon the criteria contained within paragraph (b)(2) of this section unless the Tribal gaming regulatory authority elects to waive the thirty (30) day requirement and to provide the Commission additional time, not to exceed an additional thirty (30) days, to render a decision.

(vi) In the absence of a decision within the time provided, the Tribal gaming regulatory authority's resubmission shall be considered concurred with by the Commission and become effective.

(2) The Tribal gaming regulatory authority may appeal the Chairman's objection to the approval of a variance to the full Commission without re-submitting the variance by filing a notice of appeal with the full Commission within

thirty (30) days of the Chairman's objection and complying with the procedures described in paragraph (d)(1) of this section.

(e) *Effective date of variance.* The gaming operation shall comply with standards that achieve a level of control sufficient to accomplish the purpose of the standard it is to replace until such time as the Commission objects to the Tribal gaming regulatory authority's approval of a variance as provided in paragraph (b) of this section. Concurrence in a variance by the Chairman or Commission is discretionary and variances will not be granted routinely. The gaming operation shall comply with standards at least as stringent as those set forth in this part until such time as the Chairman or Commission concurs with the Tribal gaming regulatory authority's approval of a variance.

[70 FR 23022, May 4, 2005]

§ 542.20 What is a Tier A gaming operation?

A Tier A gaming operation is one with annual gross gaming revenues of more than \$1 million but not more than \$5 million.

§ 542.21 What are the minimum internal control standards for drop and count for Tier A gaming operations?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Table game drop standards.* (1) The setting out of empty table game drop boxes and the drop shall be a continuous process.

(2) At the end of each shift:

(i) All locked table game drop boxes shall be removed from the tables by a person independent of the pit shift being dropped;

(ii) A separate drop box shall be placed on each table opened at any time during each shift or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Upon removal from the tables, table game drop boxes shall be transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(3) If drop boxes are not placed on all tables, then the pit department shall document which tables were open during the shift.

(4) The transporting of table game drop boxes shall be performed by a minimum of two persons, at least one of whom is independent of the pit shift being dropped.

(5) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(c) *Soft count room personnel.* (1) The table game soft count and the gaming machine bill acceptor count shall be performed by a minimum of two employees.

(2) Count room personnel shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks. At no time during the count, shall there be fewer than two employees in the count room until the drop proceeds have been accepted into cage/vault accountability.

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same two persons more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than two persons.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, however, a dealer or a cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all soft count documentation.

(d) *Table game soft count standards.* (1) The table game soft count shall be performed in a soft count room or other equivalently secure area with comparable controls.